

## Update: Contempt of Court Benchbook (Revised Edition)

### CHAPTER 4

#### Sanctions for Contempt of Court

#### 4.4 Statutory Exceptions to the General Penalty Provisions of the Revised Judicature Act

##### C. Failure to Pay Child or Spousal Support

Effective February 28, 2005, 2004 PA 206 amended MCL 552.633 to allow the court to order a parent found in contempt of court to pay a fine of not more than \$100.00. On the second page of the June 2003 update to Section 4.4(C), insert the following language after the third quoted paragraph:

“(g) Except as provided by federal law and regulations, ordering the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in . . . MCL 600.2530.”

MCL 552.635(1)\* provides that the court may find a payer in contempt if the court finds the payer is in arrears and one of the following:

- The court is satisfied that by the “exercise of diligence” the payer could have the capacity to pay all or some portion of the support ordered and the payer fails or refuses to do so.
- The payer has failed to obtain a source of income and has failed to participate in a work activity after referral by the Friend of the Court.

If the court finds the payer in contempt pursuant to MCL 552.635(1), then pursuant to MCL 552.635(2)(a)–(d),\* the court shall, absent good cause to the contrary, immediately order the payer to participate in a work activity and may also enter an order doing one or more of the following:

“(a) Commit the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under

\*Effective February 28, 2005. 2004 PA 206.

\*Effective February 28, 2005. 2004 PA 206.

the supervision the court considers, necessary for the purpose of allowing the payer to participate in a work activity.

“(b) If the payer holds an occupational license, driver’s license, or recreational or sporting license, condition a suspension of the payer’s license, or a combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer’s support order.

“(c) If available within the court’s jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

“(d) Except as provided by federal law and regulations, order the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in . . . MCL 600.2530.”

## CHAPTER 5

### Common Forms of Contempt of Court

#### 5.9 Failure to Pay Child or Spousal Support

##### C. Ability to Pay Support Arrearage and Sanctions

Effective February 28, 2005, 2004 PA 206 amended MCL 552.633 to allow the court to order a parent found in contempt of court to pay a fine of not more than \$100.00. On the second page of the June 2003 update to Section 5.9(C), after the first full quoted paragraph, insert the following text:

“(g) Except as provided by federal law and regulations, ordering the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in . . . MCL 600.2530.”

After inserting the above paragraph, replace the discussion of MCL 552.635 with the following text:

MCL 552.635(1)\* provides that the court may find a payer in contempt if the court finds the payer is in arrears and one of the following:

- The court is satisfied that by the “exercise of diligence” the payer could have the capacity to pay all or some portion of the support ordered and the payer fails or refuses to do so.
- The payer has failed to obtain a source of income and has failed to participate in a work activity after referral by the Friend of the Court.

If the court finds the payer in contempt pursuant to MCL 552.635(1), then pursuant to MCL 552.635(2)(a)–(d),\* the court shall, absent good cause to the contrary, immediately order the payer to participate in a work activity and may also enter an order doing one or more of the following:

“(a) Commit the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to participate in a work activity.

“(b) If the payer holds an occupational license, driver’s license, or recreational or sporting license, condition a suspension of the payer’s license, or a combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court

\*Effective  
February 28,  
2005. 2004 PA  
206.

\*Effective  
February 28,  
2005. 2004 PA  
206.

finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

“(c) If available within the court’s jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

“(d) Except as provided by federal law and regulations, order the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in . . . MCL 600.2530.”